

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TERRY LEADON JR.,

Plaintiff,

v.

BRYAN COLLIER, et al.,

Defendants.

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Case No. 6:19-cv-364-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Terry Leadon Jr., proceeding pro se, filed this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

On November 17, 2020, Judge Mitchell issued a Report recommending that the motions to dismiss filed by Nurse Gideon Oputy (Docket No. 28) and by Officers William Bradley, Johnda Wallace, and Fawas Lambo (Docket No. 27) be denied. Docket No. 40. The Magistrate Judge also recommended that Plaintiff's claims against Defendant Bryan Collier¹ be dismissed without prejudice. No objections to the Report have been filed.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law.

¹ Defendant Bryan Collier is mistakenly listed on the docket as Bryan Collins.


Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, no party objected in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 40) as the findings of this Court and **DENIES** Defendant Oputy's motion to dismiss (Docket No. 28) and Defendants Bradley, Wallace, and Lambo's motion to dismiss (Docket No. 27). Defendant Oputy shall have 14 days from the date of this order to answer Plaintiff's complaint.

Further, the Court requests that the Clerk of Court correct the name of Bryan Collier on the docket. The Court **DISMISSES WITHOUT PREJUDICE** Plaintiff's claims against Defendant Collier.

Finally, also before the Court is Defendant Oputy's motion to substitute counsel (Docket No. 26). The Court hereby **GRANTS** that motion. Penny Maley is designated as counsel of record for Defendant Oputy.

So **ORDERED** and **SIGNED** this **25th** day of **January, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE